

## Second Reading

**The Hon. IAN MACDONALD** (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [3.50 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

### Leave granted.

This Amendment bill is a vital part of the Government's Five Point Plan to further improve the security of power supply to New South Wales.

As members of the House would be aware, the Sydney CBD has experienced three power interruptions over the past few months.

These interruptions affected Sydney businesses and households, and highlighted the importance of ensuring our electricity network is adequately protected.

Preliminary investigations have revealed that two of the three interruptions are likely to have been the result of damage to underground electricity cables, caused by construction workers undertaking excavation works.

In response to these events the Government announced a comprehensive Five Point Plan which included stronger laws to protect vital electricity supply cables, a multi-billion dollar capital investment program and a requirement for all government buildings and infrastructure to regularly test and prove back-up power systems are working and sufficient.

The amendments to the Electricity Supply Act currently before the House represent the first step in this plan.

The bill will improve the security and reliability of the State's energy supply by reducing the risk of damage to underground powerlines and pipelines from excavation work.

The amendment bill contains five key changes:

new requirements on network providers and contractors;

provisions for cost recovery;

stronger provisions to prevent damage to networks; statutory indemnity for certain officers; and application of these changes to gas pipelines.

### **FIRST CHANGE—NEW REQUIREMENTS ON NETWORK PROVIDERS AND CONTRACTORS**

The first change is that the bill amends the Electricity Supply Act in order to place new requirements on:

network operators, such as EnergyAustralia, Integral Energy and Country Energy; and

people undertaking excavation work, such as building contractors.

In relation to network operators, the bill amends the Electricity Supply Act to require network operators to belong to the Dial Before You Dig Scheme.

Dial Before You Dig is an industry-funded, not-for-profit organisation that was established to provide a single point of contact for anyone planning to excavate, so they can locate any underground infrastructure that may be affected by the planned excavation.

Network operators will be required to comply with their Dial Before You Dig membership responsibilities. These include a requirement to respond to excavators with information on the location and type of underground electricity powerlines in the vicinity of the proposed excavation work.

These new requirements will form part of the licence conditions of distribution network service providers. They will help ensure that excavation workers can do their job safely and without damaging the network by making information on the location and type of underground electricity works available to contractors seeking to commence excavation works.

The second new requirement proposed in the amendment bill places obligations on people undertaking excavation work to follow correct procedures prior to commencing their work. This includes contacting Dial Before You Dig to obtain information on the location and type of underground electricity cables.

This information is essential to ensure the safety of workers and the security of the electricity network.

Under proposed section 63Z of the Electricity Supply Act, a person must not carry out prescribed excavation work, or authorise such excavation work, unless the person has first contacted Dial Before You Dig, complied with their reasonable procedures, and waited a reasonable period of time for the information to be provided.

Failure to comply with these requirements will be a punishable offence with a maximum penalty of a \$2,200 fine.

In addition, the bill requires that excavation workers undertake their work in accordance with the regulations. These regulations will be prepared so they are consistent with established industry guidelines, standards and procedures.

The bill also allows regulations to be made that will allow network operators to monitor any excavation works being carried out near critical energy infrastructure.

The final of the new requirements introduced by the bill will make it mandatory for people undertaking excavation works to notify network operators if any damage is caused to the electricity network.

Under proposed section 63ZA, a person must, as soon as practicable after becoming aware that they have damaged an underground powerline, notify the network operator that owns the powerline of the damage.

This will allow network operators to take remedial action at an early stage, and will minimise the costs of repairing any damage and any subsequent disruptions to electricity supply to customers.

It will also be an offence to fail to comply with this requirement, with a maximum penalty of a \$2,200 fine.

#### **SECOND CHANGE—COST RECOVERY**

The second key change proposed in the Amendment bill will facilitate the recovery by network operators of costs and expenses associated with damage to electricity works.

Under proposed section 63ZB, the court will be given the discretion to order the payment of costs incurred in preventing or mitigating damage to electricity works. A court will only be able to make such an order if the costs were incurred as the result of an offence of interfering with electricity works under section 65 of the Electricity Supply Act or one of the new offences contained in proposed part 5E.

The court may also award compensation for loss or damage that results from the commission of an offence under section 65 of the Electricity Supply Act or one of the new offences contained in proposed part 5E.

For example, if a person fails to contact Dial Before You Dig as required by proposed clause 63Z, and as a result damages a network, the network operator may be able to recover, as part of the proceedings for the commission of the offence, the costs and expenses incurred.

This will provide a strong incentive on excavation workers to comply with the Dial Before You Dig provisions.

#### **THIRD CHANGE—STRENGTHEN PREVENTATIVE PROVISIONS**

The third change in the bill is to strengthen the legislative powers of network operators to protect their electricity works from damage from excavation work.

Proposed section 49A gives network operators the ability to serve notice on people the network operator believes are about to carry out work that will damage their assets.

Under these provisions network operators will be able to serve written notices that require proposed work to be modified or stopped, or they may apply for an injunction to prevent excavation work.

This means that a network operator will be able to require excavation work to be conducted in a way that will not destroy, damage or interfere with its electricity works, if the operator has reasonable cause to believe the work could damage its network.

A network operator may recover the costs incurred in repairing any damage to electricity works caused by a person who carried out excavation work in contravention of a written notice from the network operator under clause 49A.

This will provide a strong incentive on excavation workers to comply with the reasonable requirements of network operators.

The bill strengthens the maximum penalties that apply under section 65 of the Electricity Supply Act. This is the key offence provision in the Act prohibiting conduct that interferes with electricity works. This offence provision may be used to prosecute persons who dig through underground electricity powerlines.

The bill amends section 65 of the Electricity Supply Act to increase the maximum penalty for the offence of interfering with electricity works from two to five years imprisonment. The maximum fine for individuals will rise from \$11,000 to \$22,000.

For corporations the maximum penalty will be increased from \$220,000 to \$440,000.

These penalties send a strong message that interference with the electricity network will not be taken lightly. They reflect the fact that disruption to the electricity network has the capacity to result in wide-ranging inconvenience and economic loss to households and the business community.

#### **FOURTH CHANGE—STATUTORY INDEMNITYFOURTH CHANGE—STATUTORY INDEMNITY**

The fourth group of amendments in the bill create a new statutory indemnity for the Dial Before You Dig organisation and network operators who are providing information in accordance with the new requirements.

This indemnity will encourage the flow of information to excavators and ensure that Dial Before You Dig, a not-for-profit organisation, can operate effectively under the new provisions.

The statutory indemnity will not apply if an act or omission is done by Dial Before You Dig or the network operators in bad faith or negligence.

The bill also extends the statutory limits on civil liability to authorised officers of network operators. Provided these officers are acting in good faith, the personal liability of authorised officers will be removed and will instead lie against the network operator.

These indemnities are an important means of ensuring that both the Dial Before You Dig organisation and authorised officers of network operators can perform their statutory roles effectively. Similar indemnities already apply in relation to the exercise of functions under the National Electricity Law.

#### **FIFTH CHANGE—GAS PIPELINESFIFTH CHANGE—GAS PIPELINES**

The final key change contained in the amendment bill is the inclusion of very similar provisions to those outlined above for the Electricity Supply Act in the Gas Supply Act.

These new requirements will apply equally to underground powerlines and gas pipelines so that both forms of vital energy infrastructure are protected.

Underground gas pipelines are just as critical to gas consumers as electricity cables to electricity consumers, and gas consumers deserve the same level of protection against supply interruption as electricity consumers.

For this reason the amendment bill places the same obligations on gas network operators as I have outlined for electricity network operators.

That is, they must join Dial Before You Dig, comply with the membership requirements, and with any regulations made under the Act concerning the information they must provide to Dial Before You Dig.

Similarly the bill ensures the new requirements on excavation workers in relation to underground electricity cables apply equally to underground gas pipelines.

That is people intending to carry out excavation work must first contact Dial Before You Dig, comply with their reasonable procedures, and wait a reasonable period of time for the information to be provided. The increased maximum penalties and new offences also apply to gas pipelines.

#### **CONCLUSIONCONCLUSION**

The amendments I have outlined today are a vital means of protecting the State's electricity and gas networks.

As members of the House have seen, interruptions to power supply have serious economic and social consequences, and should be strongly deterred by effective and robust legislation.

The new requirements and strengthened protections contained in the amendment bill will help to ensure that these existing networks are protected from damage.

This protective regime will be extremely important to ensure the security of the State's future investments in the electricity network, and I commend it to the House.

Network investment over the next five years will be the largest capital expenditure program undertaken in the history of New South Wales. It is therefore essential to ensure that adequate legislative protections are in place to protect the value of this investment for future generations.

The amendment bill currently before the House delivers this protection.